

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7527

Petition of Telephone Operating Company of)
Vermont LLC, d/b/a Fairpoint Communications,)
to construct wireless broadband facilities)

Order entered: 9/2/2009

ORDER RE: SIGNIFICANT ISSUES DETERMINATION

On August 27, 2009, I issued an Order granting the Bixby Hill Homeowners Association ("BHA") "permissive intervention with respect to the aesthetic impact of the project on the Meadows Edge housing development."¹

On August 31, 2009, Telephone Operating Company of Vermont LLC, d/b/a Fairpoint Communications ("Fairpoint"), filed a Motion for Significant Issues Determination. Specifically, Fairpoint requests that the "Hearing Officer promptly determine that there are no significant issues in this proceeding." Fairpoint argues that this issue must be determined in order to allow the parties to formulate a schedule for the remainder of this proceeding as required by the August 27, 2009 Order.

On June 15, 2009, the Public Service Board issued a notice requesting comment on whether the project application raises a significant issue with respect to the substantive criteria of 30 V.S.A. § 248a(C). Therefore, the parties have been provided an opportunity to comment on this issue.

In the August 27, 2009 Order, I granted the BHA permissive intervention on the basis of the project's aesthetic impact. By granting intervention under this criteria, I have implicitly "identified a substantial issue raised by the application" pursuant to 30 V.S.A. § 248a(f). It would make little sense to allow a party the opportunity to present evidence with respect to specific criteria, only to determine that there were no substantial issues raised by the application

1. Prehearing Conference Memorandum and Order Re: Intervention, August 27, 2009, at 3.

with respect to that criteria. Therefore, I deny Fairpoint's request for determination that there are no substantial issues raised by the application. Further, I confirm that, as evidenced by the August 27, 2009 Order, the application raises a substantial issue with respect to aesthetics. Consequently, pursuant to § 248a(f), a final determination on the application is due within 180 days of filing.

SO ORDERED.

Dated at Montpelier, Vermont, this 2ND day of September, 2009.

s/Gregg Faber

Gregg Faber
Hearing Officer

OFFICE OF THE CLERK

FILED: September 2, 2009

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)